

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6972 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? -
2. To be referred to the Reporter or not? -

3. Whether Their Lordships wish to see the fair copy of the judgement? -
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? -
5. Whether it is to be circulated to the Civil Judge?

Versus

STATE OF GUJARAT

Appearance:

MR BHARAT J SHELAT for Petitioner  
NOTICE SERVED for Respondent No. 3  
MR PM RAVAL for Respondent No. 2.  
MR VB GHARANIYA, AGP for respondent no. 1.

CORAM : MR.JUSTICE KUNDAN SINGH  
Date of decision: 24/11/98

ORAL JUDGEMENT

This petition has been filed for a direction to the respondents to give a deemed date to the petitioner in the District Cadre and pay the arrears of salary and other benefits including the arrears of pension and gratuity.

2. The petitioner was appointed as a Clerk in Mendarda Municipality and he was serving as a Octroi Clerk from 21-1-1951. Later on the said Municipality was abolished and ceased to exist under the provisions of the Bombay District Municipal Act, 1901 and it was merged in Panchayat Services. The petitioner was allocated to Panchayat Service from 1-4-1963 and he was promoted as a Secretary of the respondent no. 3 Gram Panchayat and he was confirmed on the said post from 1-8-1967 and continued as the Secretary till he superannuated on 31-1-1984.

3. Learned counsel for the petitioner submitted that once the employees of the Municipalities were taken over by any Panchayat Service the State Government should have prepared a seniority list and according to that seniority list the petitioner was entitled to the various other benefits. But as no seniority list was prepared and services of the petitioner were taken by Gram Panchayat, hence the petitioner was deprived of seniority in the Panchayat service. Learned counsel for the petitioner in order to persuade this Court has filed a copy of the decision of this Court dated 3-1-10-197 whereby Special Civil Application No. 329 of 1985 was disposed of by this Court with a direction to the petitioners to file a representation in respect of their grievances within period of one month from the date of receipt a certified copy of that order to the respondent no. 1 and the respondent no. 1 was directed to decide the same within a period of four months thereafter. The respondent no.1 was further directed to pass a speaking order and to send a copy of that order to the petitioner of that case. Similarly, in the present case the petitioner has already filed a representations dated 22-10-1984 and 3-5-1985. But the seniority list has not been prepared by the respondents, nor the petitioner received any reply from the department concerned.

4. Learned counsel for the petitioner has also relied on the decision of this Court dated 7-2-1985 passed in Special Civil Application No.581 of 1985 and also on the decision of the Supreme Court in the case of Mathuradas Mohanlal Kedia and Others others S.D. Munshaw and other, reported in AIR 1984 SC 161.

5. Considering the facts and circumstances of the case, I think it proper that this petition is being disposed of giving liberty to the petitioner to file a fresh representation for redressal of his grievance within a period of one month with a certified copy of this order and in case such a representation is filed by the petitioner to the respondent no. 1, the respondent no. 1 Secretary, Panchayat, Housing and Urban Development Department, Sachivalaya, Gandhinagar is directed to decide the representation filed by the petitioner in accordance with law by a reasoned order within a period of two months from the date of receipt of the representation along with a certified copy of this order and a copy of the same may be sent to the petitioner by registered post. Accordingly this petition is disposed of. Rule is discharged with no order as to costs.

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